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6

7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION  
10

11 UNITED STATES OF AMERICA,	)	No. CR 12-0088 LHK
	)	
12 Plaintiff,	)	STIPULATION AND <del>PROPOSED</del>
	)	ORDER CONTINUING HEARING TO
13 vs.	)	JUNE 13, 2012, AND EXCLUDING TIME
	)	UNDER THE SPEEDY TRIAL ACT
14 FIDEL REYES DE LA CRUZ, et al.,	)	
	)	
15 Defendant.	)	
_____	)	
16		
17		

18 **STIPULATION**

19 The parties, Fidel Reyes De La Cruz, Gonzalo Reyes De La Cruz, Enrique Reyes De La  
20 Cruz, and Francisco Reyes De La Cruz, and the government, acting through their respective  
21 counsel, hereby stipulate, subject to the Court's approval, that the status date currently set for  
22 May 30, 2012, be vacated and continued to June 13, 2012, at 9:00 a.m for further status and a  
23 hearing on defendant Fidel Reyes De La Cruz's Motion for Pretrial Access to Witnesses set for  
24 June 13, 2012.

25 The reason for the requested continuance is, since the last status hearing held in this  
26 matter, defendant Fidel Reye De La Cruz filed on May 22, 2012, a motion for pretrial access to

witnesses that is set to be heard on June 13, 2012. *See* Docketed items # 26-28. Defendants Enrique Reyes De La Cruz, represented by Michelle Spencer, and Francisco Reyes, represented by James McNair Thompson, have joined in that motion. The parties therefore respectfully requests and agree to a further continuance and exclusion of time based on defense counsels' need to effectively prepare for the June 13, 2012, motions hearing date and based on the pending defense pretrial motion.

Accordingly, the parties agree and stipulate that time should be excluded from May 30, 2012, through and including June 13, 2012, under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) and (B)(iv), for effective preparation, and 18 U.S.C. § 3161(h)(1)(D), based on the pending defense motion for pretrial access to witnesses. The parties, and the government further agree that granting the requested exclusion of time will serve the interest of justice and the ends of justice outweigh the interest of the public and the defendant in a speedy trial.

IT IS SO STIPULATED.

Dated: May 23, 2012

\_\_\_\_\_/s/\_\_\_\_\_  
VARELL L. FULLER  
Assistant Federal Public Defender  
Counsel for Fidel Reyes De La Cruz

Dated: May 23, 2012

\_\_\_\_\_/s/\_\_\_\_\_  
GRAHAM E. ARCHER  
Counsel for Gonzalo Reyes De La Cruz

Dated: May 23, 2012

\_\_\_\_\_/s/\_\_\_\_\_  
MICHELLE DEE SPENCER  
Counsel for Enrique Reyes De La Cruz

Dated: May 23, 2012

\_\_\_\_\_/s/\_\_\_\_\_  
JAMES McNAIR THOMPSON  
Counsel for Francisco Reyes De La Cruz

Dated: May 23, 2012

\_\_\_\_\_/s/\_\_\_\_\_  
OWEN P. MARTIKAN  
Assistant United States Attorney

~~[Proposed]~~ ORDER

GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY ORDERED that the status hearing currently set for May 30, 2012, shall be continued to June 13, 2012, at 9:00 a.m, for a hearing on the pending defense pretrial motion and further status.

THE COURT FINDS that failing to exclude the time between May 30, 2012, and June 13, 2012, would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

THE COURT FURTHER FINDS that the ends of justice served by excluding the time between May 30, 2012, and June 13, 2012, from computation under the Speedy Trial Act outweigh the interests of the public and the defendant in a speedy trial.

THEREFORE, IT IS HEREBY ORDERED that the time between May 30, 2012, and June 13, 2012, shall be excluded from computation under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), and (B)(iv), and 18 U.S.C. § 3161(h)(1)(D).

IT IS SO ORDERED.

Dated: 5/25/12

  
THE HONORABLE LUCY H. KOH  
United States District Court Judge